



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on February 26, 2008

Date of Meeting: September 5, 2007

The Mayor and Council of the City of Tucson met in regular session in the Mayor and Council Chambers in City Hall, 255 West Alameda Street, Tucson, Arizona, at 5:37 p.m., on Wednesday, September 5, 2007, all members having been notified of the time and place thereof.

1. ROLL CALL

The meeting was called to order by Mayor Pro Tempore Scott and upon roll call, those present and absent were:

Present:

José J. Ibarra	Council Member Ward 1
Carol W. West	Council Member Ward 2
Karin Uhlich	Council Member Ward 3
Steve Leal	Council Member Ward 5
Nina J. Trasoff	Council Member Ward 6
Shirley C. Scott	Mayor Pro Tempore, Vice Mayor, Ward 4

Absent/Excused:

Robert E. Walkup	Mayor
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Staff Members Present:

Mike Letcher	Deputy City Manager
Michael Rankin	City Attorney
Kathleen S. Detrick	City Clerk
Liz R. Miller	Assistant City Manager

Mayor Pro Tempore Scott announced Mayor Walkup was absent due to the death of his daughter, Julia Walkup Middleton. She said the Council's thoughts and prayers were with Mayor Walkup and his family. She announced it was the family's wish that in lieu of flowers, donations could be made in memory of Julia Walkup Middleton to the Arizona Cancer Center. Cards could also be sent to the Mayor's office. A celebration of the life of Ms. Middleton was scheduled for September 12, 2007, at the Tucson Botanical Gardens, and the public was welcome to attend.

Kathleen S. Detrick, City Clerk, announced Susie Rogers would be assisting with anyone in the audience needing Spanish language translation for items listed on the agenda.

2. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Kensang Lin Pur, of the Tara Mahayana Buddhist Center, after which the Pledge of Allegiance was presented by the entire assembly.

Presentations:

- a. Mayor Pro Tempore Scott proclaimed September 2007, to be "National Alcohol and Drug Addiction Recovery Month". Pete Moore accepted the proclamation.
- b. Mayor Pro Tempore Scott proclaimed 2007 to be "KB Home's 50th Anniversary". John Bremond accepted the proclamation.
- c. Mayor Pro Tempore Scott proclaimed September 2007, to be "Emergency Preparedness Month". Lieutenant Wes Dison, Tucson Police Department, accepted the proclamation.
- d. Mayor Pro Tempore Scott and Council Member Uhlich presented a Certificate of Appreciation to Pete V. Salgado, Tucson Parks and Recreation on behalf of the Barrio Blue Moon residents.
- e. Mayor Pro Tempore Scott proclaimed September 10 to 16, 2007, to be "Alternative Energy Week 2007". Dennis Dickerson and Colleen Crowninshield accepted the proclamation.

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Pro Tempore Scott announced City Manager's communication number 477, dated September 5, 2007, was received into and made a part of the record. She also announced this was the time scheduled to allow members of the Council to report on current events and asked if there were any reports.

- a. Council Member Trasoff invited the public to the Ward 6 office to view a photo exhibit produced by participants in La Paloma Family Services.

4. CITY MANAGER'S REPORT: SUMMARY OF CURRENT EVENTS

Mayor Pro Tempore Scott announced City Manager's communication number 478, dated September 5, 2007, was received into and made a part of the record. She also announced this was the time scheduled to allow the City Manager to report on current events, and asked for that report.

Assistant City Manager Liz R. Miller announced:

- a. The City of Tucson Parks and Recreation staff, supporters, and partners had received one-third of the statewide awards distributed at the 2007 Arizona Parks & Recreation conference. Honorees included the Tucson Clean & Beautiful's Adopt a Park Program; Donna Higginbotham-Perkins, Volunteer of the Year; the KIDCO Kares Program; the City's New Way effort which addressed morbid obesity; Paul Newell, Co-Chair of the Bicycle Challenge, the President's Award; City staff members Antonio Romero, Orlando Moreno and John Rosenboom; Midge Irwin, 2007 Professional of the Year; and Council Member Carol West, 2007 Outstanding Public Official.

5. LIQUOR LICENSE APPLICATIONS

Mayor Pro Tempore Scott announced City Manager's communication number 479, dated September 5, 2007, was received into and made a part of the record. She asked the City Clerk to read the Liquor License Agenda.

- b. Liquor License Applications

New License(s)

1. Big L Market, Ward 5
1353 S. 4th Ave.
Applicant: Sophal Paul Tith
Series 10, City 57-07
Action must be taken by: August 30, 2007
Tucson Police Department has submitted a report showing "no recommendation."
Development Services and Revenue have indicated the applicant is in compliance with city requirements.
Public Opinion: Written Argument Opposed Filed

This item was considered separately.

2. Cheba Hut, Ward 6
1820 E. 6th St.
Applicant: Twila Lenz Brewer
Series 12, City 58-07
Action must be taken by: September 10, 2007

Tucson Police Department and Revenue have indicated the applicant is in compliance with city requirements.

Development Services has indicated the applicant is not in compliance with city requirements.

This item was considered separately.

3. Guadalajara Grill East, Ward 2
6616 E. Grant Rd.
Applicant: Emma Yolanda Holzman
Series 12, City 60-07
Action must be taken by: September 10, 2007
Tucson Police Department and Revenue have indicated the applicant is in compliance with city requirements.
Development Services has indicated the applicant is not in compliance with city requirements.

This item was considered separately.

4. Kamon Asian Bistro Sushi Bar, Ward 4
9630 E. 22nd St., #100
Applicant: Shin Young K. Watabe
Series 12, City 61-07
Action must be taken by: September 10, 2007
Tucson Police Department and Development Services have indicated the applicant is not in compliance with city requirements.
Revenue has indicated the applicant is in compliance with city requirements.

This item was considered separately.

5. Circle K Store #1773, Ward 5
6525 S. Country Club Rd.
Applicant: Kim Kenneth Kwiatkowski
Series 9, City 63-07
Action must be taken by: September 20, 2007
Staff has indicated the applicant is in compliance with city requirements.

Person Transfer

6. Hacienda Del Mar, Ward 5
5358 S. Old Nogales Hwy.
Applicant: Hector Gonzalez
Series 6, City 55-07
Action must be taken by: August 27, 2007
Staff has indicated the applicant is in compliance with city requirements.

7. North Shore Hawaiian Cuisine, Ward 4
6255 E. Golf Links Rd.
Applicant: Jessica Lima Francisca Brown
Series 6, City 56-07
Action must be taken by: August 30, 2007
Staff has indicated the applicant is in compliance with city requirements.

Person/Location Transfer

8. Elle A Wine Country Restaurant, Ward 6
3048 E. Broadway Blvd.
Applicant: Jeffrey Arthur Fuld
Series 7, City 62-07
Action must be taken by: September 14, 2007
Staff has indicated the applicant is in compliance with city requirements.

Location Transfer

9. Old Peking Chinese Restaurant & Sushi Bar, Ward 6
2522 E. Speedway Blvd.
Applicant: Douglas Marc Levy
Series 7, City 59-07
Action must be taken by: September 9, 2007
Staff has indicated the applicant is in compliance with city requirements.

c. Special Event(s)

1. Comite de Festividades Mexicanas, Ward 1
3700 S. La Cholla Blvd.
Applicant: Mercedes M. Guerrero
City T49-07
Date of Event: September 15-16, 2007
(Celebrate Mexican Independence Day)
Staff has indicated the applicant is in compliance with city requirements.
2. Escaramuza Flor de Primavera, Ward 5
4823 S. 6th Ave.
Applicant: Pedro Balderrama
City T50-07
Date of Event: September 15, 2007
(Entertainment & Educate Mexican Culture Concert/Dance)
Staff has indicated the applicant is in compliance with city requirements.

d. Agent Change/Acquisition of Control

1. Embassy Suites Hotel, Ward 6
5335 E. Broadway
Applicant: Kevin Arnold Kramber
Series 6, City AC5-07
Action must be taken by: September 10, 2007
Staff has indicated the applicant is in compliance with city requirements.

It was moved by Council Member West, duly seconded, and carried by a voice vote of 6 to 0 (Mayor Walkup absent/excused) to forward liquor license applications 5b5 through 5b9, 5c1 and 5c2, and 5d1 to the Arizona State Liquor Board with a recommendation for approval.

5. LIQUOR LICENSE APPLICATIONS

b. Liquor License Applications

New License(s)

1. Big L Market, Ward 5
1353 S. 4th Ave.
Applicant: Sophal Paul Tith
Series 10, City 57-07
Action must be taken by: August 30, 2007
Tucson Police Department has submitted a report showing “no recommendation.”
Development Services and Revenue have indicated the applicant is in compliance with city requirements.
Public Opinion: Written Argument Opposed Filed

Kathleen S. Detrick, City Clerk, announced the first application to be considered separately was Item 5b1, Big L Market, located in Ward 5. Tucson Police Department had submitted a report showing “no recommendation” and a written argument was also filed.

Council Member Leal asked if Sophal Tith, the applicant, would like to address the Council.

Sophal Paul Tith asked what the noncompliance issue was about. He said he wanted to purchase this store from the previous owners whom he was not associated with, but whose license had been denied. He said his record was clean and he had run the Donut King for approximately one year. He said he wanted to continue running a business and did not understand why his application was not being approved.

Council Member Leal questioned Mr. Tith’s use of the words “noncompliance” in his opening statement.

Mr. Tith responded he was probably referring to the previous owners who were denied their license. He questioned why his application would not be approved since he was not associated with the previous owners and his record was clean.

Council Member Leal said the issue in the past had to do with the concentration of the number of liquor licenses in the area. At the time, there were forty-two licenses within a one-mile radius. Part of the criteria for having a license was it must create convenience where there was none. That burden was not met in the past because with forty-two licenses in a one-mile radius, it was very easy to get liquor. Also, the City had received three protest letters. He said he did not know if Mr. Tith had the opportunity to see them, but he could delineate what was in them. Council Member Leal said people in the area had concerns about an entrenchment of blight, concerns about furthering the existing climate of disinvestment in the area, and concerns about seeing home ownership decline and more homes becoming rentals which would bring a public safety problem into the area. He said that was the history of what the neighbors were concerned about.

Council Member Leal asked if any of the neighbors were present who would like to add to the discussion. He said Mr. Tith was welcome to respond to any of the comments.

Robert Kramber, representing Big L market, said he was involved in commercial real estate in Tucson for twenty-six years. He had lived in Tucson for thirty-two years and he specialized in the sale of bars and restaurants. He said he understood the last people were denied because they had a criminal record. At the Arizona State Liquor Board meeting in Phoenix on April 16, 2007, the City stressed the saturation issue for thirty minutes. Mr. Kramber said he had a document showing the Liquor Board in Phoenix denied the applicant, but okayed the location. He said he was trying to prevent the need for another meeting in Phoenix. It was a burden on his client, as they would have to hire a lawyer, and it would take a day to prep and a day trip to the Liquor Board.

Mr. Kramber said the Liquor Board okayed this location on April 16. He said he could not see them denying it at an October meeting if they had to go that far. He said Mr. Tith was a taxpayer, had a clean record, had a house in Tucson, and had a doughnut shop. He said the Sunnyside Neighborhood Association did not want to address the real problem. There were two soup kitchens a block away. He said he was pulled over while driving his white Escalade. He said they thought he was a drug dealer and he explained he was taking pictures of the soup kitchens. There were two squad cars there, and people lined up all the way back to 22nd Street. He added that he did not build the park two blocks away for people to go from the soup kitchen to the park.

Mr. Kramber said he thought the Santa Rita Neighborhood Association should address the real issue. He said the association should send out a welcome wagon to welcome new businesses. He said when he went to the neighborhood association they asked him where he lived. He said his response was he was trying to work out the situation with them and added there was not a soup kitchen on Swan and Sunrise where he lived. Mr. Kramber said he was not against soup kitchens, but when he spoke with

twenty business people in the area, they said they had been trying to get rid of the soup kitchen for three years. He said they complained of people urinating on flowers. Mr. Kramber added if the business had agreed to stop selling forty-ounce beers, the Santa Rita Park Neighborhood Association would have supported the application. He said it was an unwise request because patrons would go to Quik Mart and buy it there. He said he did not want to burden his client. Mr. Tith was a business man, a nice person, and the Liquor Board had approved this location on April 16, 2007, as it said in the document he submitted.

Paul Clinco requested the City recommend the State decline the liquor license application. He said the Council had already heard about the Quik Mart, and he noted it was a block from Big L Market.

Mr. Clinco said he owned property in the Santa Rita Park Neighborhood. Between his property and the Big L Market was a small residential space and a moderately-sized, unfenced, vacant lot where homeless people congregated. Providing a source for alcohol directly across the street would likely increase the attractiveness of the vacant lot and continue the trespassing, crime, and nuisance the Council had already heard about.

Mr. Clinco said people were drunk in public every day and were excreting there. Alcohol trash was left everywhere. He said homelessness was a tragedy and alcoholism was a disease, but that was no reason for property owners and taxpayers or the tax base of the city to have to tolerate the degradation of the quality of life in their neighborhoods. He said the Council might wonder, since he lived in the Old Fort Lowell Neighborhood, why he was concerned. He said his son lived close to the business location. He said he had not known there were forty other liquor stores within a one-mile radius. The idea that there was a park filled with homeless people with no place to go, and easy access to alcohol all around, led him to believe there was no reason why the City should recommend another liquor store license in the neighborhood.

Mr. Clinco said there was enough trash and danger. There were elderly people who were afraid to leave their homes in the neighborhood. There was no reason the City should encourage alcoholism by providing another liquor license, especially since September was Alcohol Abuse Prevention Month. He said he was glad the Council heard this information during the presentation of the proclamation for "National Alcohol and Drug Addiction Recovery Month." He said there was no need for him to repeat most of the notes he had written.

Sergeant Stoutmeyer, Tucson Police Department (TPD), stated the "no recommendation" on this application was based upon the oversaturation of liquor establishments in the area. There were at least eight bars in the area; four beer and wine bars; seven beer and wine stores; and two social clubs that served liquor. This totaled forty-two different areas where individuals could obtain liquor. Part of the law required the applicant show convenience to the community and that the license was in the best interest of the community. He said TPD's argument was with forty-two liquor

establishments in the area, one more would not serve the public convenience. He said he thought the community was already overserved.

Mr. Tith said he provided other services to the community. He did not just sell liquor; he sold food and the like. He said liquor was part of his income and the store had been there for at least twelve years. He was just catering to the community. He said he provided what they liked and getting rid of one liquor license would not change much because homeless people or other people would have to walk further to wherever they could to purchase liquor. Denying the license would not make any difference at all.

Council Member Leal said he thought the applicant's burden was to show convenience would be created where none existed. As the officer stated, there were forty-two licenses. Sergeant Stoutmeyer explained the composition of those licenses, and it was currently not inconvenient in any way whatsoever to obtain alcohol. He said he was sorry Mr. Kramber was concerned about burdening Mr. Tith with a trip to Phoenix. The problems that were built into this neighborhood, through bad decisions, were things people who lived there and owned property there, lived with twenty-four hours a day, three hundred sixty-five days a year. The Mayor and Council needed to make its decisions based on what it thought was right, and not for reasons Mr. Kramber had mentioned. For that reason, he said he thought it was important to send the application to the State with the recommendation for denial because convenience was not served by the issuance of this license. TPD did not often say "no recommendation" based on the facts, so he said he thought when they made this statement, it was significant.

It was moved by Council Member Leal, duly seconded, and carried by a voice vote of 6 to 0 (Mayor Walkup absent/excused) to forward Item 5b1 to the Arizona State Liquor Board with a recommendation for denial.

5. LIQUOR LICENSE APPLICATIONS

b. Liquor License Applications

New License(s)

2. Cheba Hut, Ward 6
1820 E. 6th St.
Applicant: Twila Lenz Brewer
Series 12, City 58-07
Action must be taken by: September 10, 2007
Tucson Police Department and Revenue have indicated the applicant is in compliance with city requirements.
Development Services has indicated the applicant is not in compliance with city requirements.

Kathleen S. Detrick, City Clerk, announced the second application to be considered separately was Item 5b2, Cheba Hut, located in Ward 6. Development Services Department (DSD) indicated the applicant was not in compliance with City requirements.

Council Member Trasoff verified the applicant was present and announced the Tucson Police Department found the application was in compliance, but the DSD did not. The current issue was a mitigation plan. She asked if the applicant was aware of this.

Twila Brewer, applicant, responded affirmatively. She said she had spoken with Bill Balak, Principal Planner, Development Services Department. He explained to her what she needed to do. She said she was a little confused about it but he explained what needed to be done and she got it together now, so all she needed to do was mail it. She said she had just gotten the labels from the City and needed to mail it out.

Council Member Trasoff asked if Ms. Brewer would be in the process of doing this.

Ms. Brewer responded affirmatively.

Council Member Trasoff asked if there was anyone present who wanted to speak against the application. There was no one. She indicated she was not sure how to proceed if Ms. Brewer was, in good faith, going to follow through with DSD. She asked if Ms. Brewer had made arrangements with DSD on timetables.

Ms. Brewer responded she had not.

Council member Trasoff asked if someone from DSD was present.

Volker Kiel, second applicant, said the problem was they had tried to do it as well as possible, but Ms. Brewer was going through a divorce when they applied for the license. Mr. Kiel started getting into the business and they had a lot of things to deal with. So, in between, they forgot about certain things. He said they just forgot and he apologized. Mr. Kiel said they received the labels. They had talked to the wrong person for a while. They received a letter that they had not received because it went to Ms. Brewer's old address instead of to Cheba Hut, and her husband took about two weeks to get the letter to them. So that was why they got a little bit behind. He said they got everything together and they hoped they would get another chance.

Council Member Trasoff asked to hear from a representative from DSD.

Craig Gross, Development Services Department, Deputy Director reported Ms. Brewer and Mr. Kiel had applied for the full notice procedure process that was required to allow alcoholic beverages in the C-1 zone. This was a sixty to ninety-day process, depending upon how quickly they moved along their part of it, which was notification and meeting with the neighbors. They had just received their mailing labels, so they had

not sent the notice out to the neighbors yet, and had not had a neighborhood meeting. He said, at this particular point, he could not tell the Mayor and Council whether or not there was going to be any adverse impact or concerns from the adjacent neighborhood. The Council adopted the ordinance, DSD was following through on that, and they needed to wait and see whether or not they could approve it or if there were additional issues they needed to apply.

Council Member Trasoff asked what it meant when the agenda stated action had to be taken by September 10, 2007.

Kathleen S. Detrick, City Clerk, stated it was the State's requirement that the Mayor and Council had to make a recommendation within a certain period of time. The deadline for this particular recommendation was September 10, 2007. After that, the Mayor and Council had no further opportunity to make a recommendation.

Council Member Trasoff said the applicant could follow through with it, without any recommendation from the Mayor and Council.

Michael Rankin, City Attorney, responded that was correct. The way the liquor statutes were set up, the local government body had a sixty-day time period in which to make a recommendation to the Board whether it should grant or deny the license. After that time frame expired, then the Council lost its opportunity to make its recommendation. The applicants could continue to engage in the process and get their rezoning approval by filing their mitigation plan.

Mr. Rankin stated the Council had three options. They could make a no recommendation, which would have the effect of triggering the hearing in front of the Board. The applicant would go there and, perhaps by that time, they would have secured their zoning approval. They could recommend denial. In that motion, make it very clear that the basis of the denial was because they had not secured their zoning approval, otherwise, the Mayor and Council would have approved it. In that instance, the Board would have a hearing, but they would get the message that the reason for the recommendation was simply the lack of zoning approval.

Council Member Trasoff said she was concerned. She said she understood the reasons and she knew that this happened. For the Mayor and Council to recommend with the explanation meant they had not had a chance to hear from the neighbors because they had not yet been notified. She said she was loathe to make that kind of recommendation because they did not know what would come out of that. She said she believed the applicants had good intentions and she felt all right about that, but her motion was going to be for the Mayor and Council to forward the application with no recommendation. That gave the applicants the opportunity to possibly complete the process before they went before the State Liquor Board and they could resolve it there.

It was moved by Council Member Trasoff, duly seconded, and carried by a voice vote of 6 to 0 (Mayor Walkup absent/excused) to forward Item 5b2 to the Arizona State Liquor Board with no recommendation.

5. LIQUOR LICENSE APPLICATIONS

b. Liquor License Applications

New License(s)

3. Guadalajara Grill East, Ward 2
6616 E. Grant Rd.
Applicant: Emma Yolanda Holzman
Series 12, City 60-07
Action must be taken by: September 10, 2007
Tucson Police Department and Revenue have indicated the applicant is in compliance with city requirements.
Development Services has indicated the applicant is not in compliance with city requirements

Kathleen S. Detrick, City Clerk, announced the next application to be considered separately was Item 5b3, Guadalajara Grill East, located in Ward 2. The Development Services Department (DSD) indicated the applicant was not in compliance.

Council Member West said she had visited with the present owner of the property. It had been a retail establishment, and at that point, they would like to open a very successful restaurant in the same space. There was a need for additional parking and some other compliance requirements. The parking had been worked out with some additional businesses. However, the letter from the owner had to come from Boise, Idaho. The letter was not received yet, but it was expected by the end of the week. She asked if Craig Gross, DSD, would add anything else to this as far as the lack of compliance.

Craig Gross, Deputy Director, Development Services Department, said the issue was the application was in a C-1 zone. The liquor license process required a mitigation plan and notification to the neighbors. As indicated, the last two previous certificates of occupancy for this site had been for retail. The restaurant had a much larger parking requirement, which he understood the applicant had been able to work out. The applicant did not have all the papers signed yet. It also required a number of changes to the interior of the building for building codes going from retail to a restaurant. The plans were yet to be approved for it, or the parking requirements, or the mitigation plan.

Council Member West said the City did not want to make anyone think that this compliance was not important. She said she believed the applicant, or the owner, who visited with her, realized the severity of this issue. At this time, she said she thought the applicant had good intentions.

It was moved by Council Member West, duly seconded, and carried by a voice vote of 6 to 0 (Mayor Walkup absent/excused) to forward Item 5b3 to the Arizona State Liquor Board with no recommendation.

5. LIQUOR LICENSE APPLICATIONS

b. Liquor License Applications

New License(s)

4. Kamon Asian Bistro Sushi Bar, Ward 4
9630 E. 22nd St., #100
Applicant: Shin Young K. Watabe
Series 12, City 61-07
Action must be taken by: September 10, 2007
Tucson Police Department and Development Services have indicated the applicant is not in compliance with city requirements.
Revenue has indicated the applicant is in compliance with city requirements.

Kathleen S. Detrick, City Clerk, announced the next application to be considered separately was Item 5b4, Kamon Asian Bistro Sushi Bar, located in Ward 4. Tucson Police Department (TPD) and Development Services Department (DSD) indicated the applicant was not in compliance with requirements.

Thomas Aguilera, representing the applicant, said he thought he could get the Mayor and Council to vote yes on this application. He stated the reason he said that was because he heard Council Member West say something he thought was true. He said he thought the applicant's intentions should be recognized. He said he thought good intentions held a lot of water like Council Member West indicated.

Mr. Aguilera commented that in this case, the applicant had a C-1 zone mitigation plan compliance issue. He said his client had sent notices to all the neighbors. She had complied with the mitigation plan. It was in the final review process with Bill Balak, Principal Planner from DSD. He said he did not know what that entailed because he had only dealt with that a couple of times since it was a new law. In this case, the neighbors were notified. All the mailings went out. He said the reason why his client did not do that in a more timely fashion was because she had been a liquor licensee twice before. She had the restaurants called Yuki Sushi. She sold those in the past and now started a third venture called Kamon Asian Bistro. She was unaware of the new law, because of her past experience having proceeded through the application process a couple of times, and was not aware of it. Once she was made aware by letter from the City, she immediately started to comply with the rules and held the meeting, but no neighbors showed up, although they were all notified.

Mr. Aguilera said that if that was all he was present for, in light of the first two hearings, he would probably go up to Phoenix with a no recommendation, which in his view would be a very good victory on this Board. He said that might not happen, but it might if the Mayor and Council considered the second issue he was present to address. On Section 15 of the applicant's questionnaire, she marked "no". He said she should not have marked "no," and he would let her explain why because he always asked a client why they marked no. They went into court, and that was very clear, as Officer Stoutmeyer, TPD had mentioned a number of times. "Yes" should have been written. It should have been marked.

Mr. Aguilera asked the Mayor and Council to think about it, like if they thought about his grandmother's life. She was like a saint. She died when she was ninety-two years old. He never heard her say a bad thing about anybody in her whole life. And she was a wonderful woman. But she did a couple of bad things, as he recalled, in her life. She was human. She must have had a little problem in her life at one time. If the Mayor and Council looked at his grandmother's life and all they were told about was that little problem she had when she was twenty, they would think she was a bad woman. But they would have to look at her whole life. That was a blip on the screen. They could not judge someone by the one mistake she made, that she cured. That was the beauty of this, and intentions did matter, even in the law. It was called mens rea. It was the intention, what was thought.

Mr. Aguilera said he would let the applicant explain why she marked "no" on the application and let her explain the circumstances why the case was cited in the first place. After that, he would respond to anything Officer Stoutmeyer might have to say. He said he would like a recommendation for approval to go to Phoenix. At the very least, he said he thought this was a case that was right for a no recommendation. He asked Ms. Watabe to explain to the Council the reason why she marked "no" on question fifteen.

Shin Young K. Watabe, applicant, said this was her third application and she went through it quickly because she had done it twice already. She said she always thought she was a good person, trying to make a good day, everyday, with her kids. So when she filled out the application, it was her fault. She did not read every single word she was supposed to read. And halfway she read and in her mind it was absolutely no. So it was her mistake, but she did not mean it and she learned from the mistake that she should be more careful.

Sergeant Stoutmeyer, Tucson Police Department, said part of the application they considered kind of critical was when someone was asked specifically if they had ever been arrested before, cited, summoned into court, and whether the case was dismissed or not. There was one particular arrest they were looking for and Ms. Watabe had marked "no" on the questionnaire. They brought up a records check indicating she had been arrested, and she had appeared in court three times on a violation. This involved an assault that took place at the Yuki Sushi, that he said he believed she had owned with her sister and one of the other employees. When called back on August 23, 2007, he asked her about it. She still said no, there was not anything else she wished to add. He said

they asked if she was arrested in August. She had marked “no” on the application. She said she had been to court while at Yuki Sushi. Then she recalled the fight with her sister and the employee. She admitted she went to court three times, and it was dismissed. Based upon that, and their conversation with Development Services, that was why TPD went ahead with a “not in compliance” recommendation based on the fact they had questions about her capability and reliability.

Mayor Pro Tempore Scott asked a representative from DSD to give the Council information they had on this item.

Craig Gross, Deputy Director, Development Services Department, said the applicant indicated they had started the process for the full notice procedure. They had done the mail out to the neighbors. DSD had received a few comments back. He said he did not have all of them at the meeting. Mr. Balak was currently reviewing them to see if there were any issues they needed to address as part of the mitigation plan or the site, if there were any additional improvements such as walls, fences, vegetation, dumpster locations, and various things like that that needed to be complied with before this was an adequate location.

Mayor Pro Tempore Scott said the write-up told her something about the notification, and the mitigation, that had been addressed. But there seemed to be another comment. She wanted Mr. Gross to give her some information about that. The comment stated there were no records in DSD of this restaurant having an approved plan or certificate of occupancy, which were required to be considered in compliance.

Mr. Gross replied that was correct. That was in process with the building plans the applicant had been submitting to obtain the new certificate of occupancy. That would be obtained in conjunction with the full notice procedure.

Mayor Pro Tempore Scott said this was another situation where the matter was in flux and yet the Council was put in a position of trying to make a recommendation one way or the other. The applicant forgot she went to court three times, and was in the process of taking care of the certificate of occupancy and the mitigation plan. She said it left her perplexed as to why the Council should move forward with this, except for the fact they were supposed to take action by today.

Mr. Gross indicated that was correct. Regarding the issue of the certificate of occupancy, the full notice procedure was strictly for the alcoholic beverage services that went in conjunction with the restaurant. The applicant could proceed forward with the restaurant which was what DSD had been working with them on for the certificate of occupancy without alcoholic beverage service.

Mayor Pro Tempore Scott indicated as Mayor Pro Tempore, she was unable to make a motion. She asked Council Member Leal to make a recommendation. She asked Mr. Aguilera if he wanted to respond before the Council proceeded.

Mr. Aguilera asked that if the Council recommended denial could they state the basis for it. He asked if it was due to the zoning or the personal qualifications, so he knew what they were dealing with in Phoenix. Regarding the arrest, he said he talked to his client about it. He said she was very eloquent in his office and spoke a lot, but in this venue she froze up a little bit. He said he thought she got a little nervous. He had asked her about being arrested. That was a pretty big deal. She did not recognize it as an arrest. It was an officer, in a parking lot, indicating he was giving her a citation. She did not recognize that as an arrest. He said in Korea, where Ms. Watabe was from, she said arrest meant someone was locked in handcuffs and was taken away and maybe never seen again. In her view, that word was a loaded word. Perhaps it tainted the rest of her reading of that one section. He said it was a minor altercation, it was not a fight. She walked in to see the cook pushing her sister to the ground. When she saw that, she picked up a little cup that was there and tossed it at him and said, "Stop pushing her." She also fired him on the spot. The cook went out to the parking lot and called the police. She said, "Sure, I threw a cup. I was trying to stop him." The police said, "Well, that is a basis for a citation." It was dismissed and she should have marked "yes" as she indicated.

Mayor Pro Tempore Scott responded she understood one of the instructions a person applying for a liquor license received in writing, if not verbally explained, was to contact the Council office in case there was any question about denial being a possibility. To her knowledge, no contact was made to the Ward 4 office. That was just another part of this scenario. She said it would have been helpful if the Ward 4 office heard from Ms. Watabe or from Mr. Aguilera, or from someone, about this to explain further.

Mr. Aguilera said he always contacted the ward office the day he was hired. But in this case, he was just hired. If he was hired early, he always contacted the ward office and talked to the liaison. Ms. Watabe had amended her application. He said he did not know whether the City had received a copy from the Liquor Board, but it had been amended.

Council Member Leal said he would set out some issues and ask Mayor Pro Tempore Scott to augment anything that he said that he might have missed. He said he thought everyone understood a liquor license was a very powerful thing. It had the capacity for great impact in a community. Along with the impact it brought a great deal of responsibility. To honor those responsibilities required a presence of mind. Part of the presence of mind was the ability to exercise judgment. Part of that presence of mind was the ability to interpret, and to understand what relations with other people could mean or not mean, and not to leave it to oneself to privately interpret things how one wanted.

Council Member Leal said he thought it was a concern for everyone to not understand the significance of the police action that occurred at the restaurant, and not to follow the direction the Clerk's office gave. These behaviors might seem small unto themselves, but they created a pattern of being able to follow rules, follow direction, and participate in civil society around the responsibilities that were embedded in a license.

The clerk said to call the Ward 4 office. That did not happen. TPD went out of its way twice to ask questions about the application. This did not trigger a memory. Then finally after it was laid out explicitly, the applicant recalled the incident. That might be innocent, but the Council did not really know. They were left in a difficult position of getting only a portion of the story, knowing if they approved the application in error, this stuff was out there almost forever. The certificate of occupancy was still unresolved. It might be concluded rightfully, may be not. Council Member Leal said it left him feeling the Council should send a recommendation for denial under the circumstances.

Mayor Pro Tempore Scott added she believed there were too many unanswered questions up and to this point.

It was moved by Council Member Leal, duly seconded, and carried by a voice vote of 6 to 0 (Mayor Walkup absent/excused) to forward Item 5b4 to the Arizona State Liquor Board with a recommendation of denial.

6. CALL TO THE AUDIENCE

Mayor Pro Tempore Scott announced this was the time any member of the public was allowed to address the Mayor and Council on any issue except for items scheduled for a public hearing. Speakers were limited to three-minute presentations.

- a. Don Foster outlined his recommendations for neighborhoods and the City to improve public safety
- b. Robert Reus spoke about his campaign for Mayor of the City Council.
- c. Michael Toney spoke about the liability of the University of Arizona (UA) and the Board of Regents regarding funding for the UA Science Center.
- d. Sandy Bowling, Sr. contested the high water bill he received due to a sprinkler equipment failure and said he objected to the City's methods of appeals and reimbursement.

Council Member Uhlich requested staff to follow-up with Mr. Bowling regarding this issue.

- e. Ken Scoville thanked Council Member West, Fred Gray, Parks & Recreation Director, Jim Conroy, Parks & Recreation Administrator, East District, Marty McCune, Historic Preservation Officer, and the Tucson-Pima County Historical Commission for their efforts in making the preservation of key buildings of the magnetic observatory at Udall Park a reality.
- f. Robert Wadlow requested the Mayor and Council address downtown merchants' concerns regarding incidents involving homeless individuals and the negative impacts the incidents had on their businesses.

- g. Juan Padres also requested the Mayor and Council address the concerns of downtown merchants regarding safety in the area.
- h. Larry G. Mathis also requested the Mayor and Council address the concerns of downtown merchants regarding safety in the area.
- i. Leslie Carlson, Tucson Planning Council for the Homeless, acknowledged the complex issue of homelessness and asked for support in working on community-wide solutions to these problems.
- j. Sonja Reinhardt related her distress and requested assistance from the Mayor and Council regarding the City's downtown area and recognized the difference between the homeless and the criminals responsible for the recent lawlessness.
- k. Ron McLoughlin spoke regarding Tucson's birthday celebrations and the distortion of Tucson's history and his belief it was offensive to the indigenous people who used to inhabit this area.
- l. Mike Davenport spoke about the loss of downtown business due to aggressive vagrants and criminals.

Council Member Trasoff requested Mike Letcher, Deputy City Manager, direct Greg Shelko, Rio Nuevo Project Director, to coordinate a meeting in September with Tucson Police Department, the City Attorney's Office, and other city staff to discuss the nature of the problems downtown mentioned at call to the audience and propose a plan to resolve the issues.

7. CONSENT AGENDA – ITEMS A THROUGH Q

Mayor Pro Tempore Scott announced the reports and recommendations from the City Manager on the Consent Agenda Items were received into and made a part of the record. She asked the City Clerk to read the Consent Agenda.

- A. TUCSON CODE: AMENDING (CHAPTER 22) CITY OF TUCSON EMPLOYEE SUPPLEMENTAL RETIREMENT SYSTEM REGARDING NON-SPOUSAL BENEFICIARIES
 - 1. Report from City Manager SEPT5-07-476 CITY-WIDE
 - 2. Ordinance No. 10445 relating to Pension plans and insurance; amending the Tucson Code, Chapter 22, Pensions, Retirement and Group Insurance, Article III Tucson Supplemental Retirement System, Division I Types of Retirement, Section 22-39 Death Benefits by adding a new subsection 22-39(e) Payment of Lump Sum Benefit; and declaring an emergency.

- B. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FOR THE AMPHI NEIGHBORHOOD REINVESTMENT PROJECT
1. Report from City Manager SEPT5-07-481 WARD 3
 2. Resolution No. 20754 relating to Intergovernmental Agreements; authorizing and approving the execution of an Intergovernmental Agreement between the City of Tucson and Pima County for the Amphi Neighborhood Reinvestment Project; and declaring an emergency.
- C. TRANSPORTATION: (C14-07-01) NAMING THE NEW DOWNTOWN FIRE STATION ENTRANCE “FIRE CENTRAL PLACE”
1. Report from City Manager SEPT5-07-483 WARD 6
 2. Ordinance No. 10446 relating to Transportation; naming the entrance for the new fire station downtown “Fire Central Place” located on the south side of West Cushing Street between South Granada Avenue and South El Paso Avenue; and declaring an emergency.
- D. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FOR THE PROVISION OF TWICE-A-DAY INITIAL COURT APPEARANCES
1. Report from City Manager SEPT5-07-482 CITY-WIDE
 2. Resolution No. 20755 relating to Intergovernmental Agreements; approving and authorizing execution of an Intergovernmental Agreement between the City of Tucson, Arizona Superior Court in Pima County, Pima County Consolidated Justice Court, and Pima County for the Provision of twice-a-day initial appearances; and declaring an emergency.
- E. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FOR THE JACKSON EMPLOYMENT CENTER BRIDGES JOB TRAINING PROGRAM FOR HOMELESS MEN AND WOMEN
1. Report from City Manager SEPT5-07-484 CITY-WIDE
 2. Resolution No. 20759 relating to Community Services; approving and authorizing execution of an Intergovernmental Agreement between the City of Tucson and Pima County for the Supportive Housing Program/Bridges Grant Intergovernmental Agreement for the Jackson Employment Center Bridges Job Training Program for Homeless Men and Women; and declaring an emergency.

- F. REAL PROPERTY: ACQUISITION OF PROPERTY LOCATED AT 1 EAST TOOLE AVENUE AND SALE TO STONE AND TOOLE ARTIST LLC OR ALBERT JOHN HAAG
1. Report from City Manager SEPT5-07-486 WARD 6
 2. Resolution No. 20756 relating to real estate; authorizing and approving the execution of an Excess Land Purchase Agreement between the City of Tucson and the Arizona Department of Transportation for the acquisition of the real property located at 1 East Toole; and declaring an emergency.
 3. Ordinance No. 10447 relating to real property; vacating and declaring certain City-owned real property located at 1 East Toole to be surplus and authorizing the sale thereof to Stone and Toole Artist LLC or Albert John Haag; and declaring an emergency.
- G. GRANT AGREEMENT: WITH THE ARIZONA CRIMINAL JUSTICE COMMISSION FOR A DRUG CONTROL AND SYSTEM IMPROVEMENT PROGRAM
1. Report from City Manager SEPT5-07-488 CITY-WIDE
 2. Resolution No. 20757 relating to Grant Agreements; approving and authorizing execution of a Grant Agreement between the City of Tucson and the Arizona Criminal Justice Commission for a drug control and system improvement program; and declaring an emergency.
- H. TUCSON CODE: AMENDING (CHAPTER 19 AND CHAPTER 7) REGARDING THE BUSINESS LICENSE POLICY
1. Report from City Manager SEPT5-07-474 CITY-WIDE
 2. Ordinance No. 10448 relating to the business privilege tax and occupational license fees; amending Tucson Code, Chapter 19, Articles I, II, and III; simplifying the licensing requirements under Chapter 19; amending certain business license fees; making conforming changes to Chapter 7; and declaring an emergency.
- I. MAYOR AND COUNCIL: AMENDING THE 2007 MAYOR AND COUNCIL MEETING SCHEDULE
1. Report from City Manager SEPT5-07-475 CITY-WIDE
 2. Ordinance No. 10449 relating to administration; amending Section 2 of Ordinance 10352, which approved a schedule of Mayor and Council regular meeting dates for 2007, to cancel the regular meeting date of September 11, 2007 and to reschedule the regular meeting date of December 4, 2007 to December 3, 2007; and declaring an emergency.

J. GRANT AGREEMENT: WITH THE ARIZONA CRIMINAL JUSTICE COMMISSION FOR A FORENSICS/POLICE CRIMINALIST PROGRAM

1. Report from City Manager SEPT5-07-487 CITY-WIDE
2. Resolution No. 20758 relating to Grants; approving and authorizing execution of a Grant Agreement between the City of Tucson and the Arizona Criminal Justice Commission which will provide \$54,000 in federal funds for a Forensics/Police Criminalist Program; and declaring an emergency.

K. INDUSTRIAL DEVELOPMENT: AUTHORIZATION FOR THE ISSUANCE OF TUCSON INDUSTRIAL DEVELOPMENT AUTHORITY JOINT SINGLE FAMILY MORTGAGE REVENUE BONDS

1. Report from City Manager SEPT5-07-491 CITY-WIDE
2. Resolution No. 20760 relating to finance: a resolution of the Mayor and Council of the City of Tucson, Arizona, approving the proceedings of The Industrial Development Authority of the City of Tucson, Arizona and the Joint Single Family Mortgage Revenue Bond Program of 2007 of The Industrial Development Authority of the City of Tucson, Arizona and The Industrial Development Authority of the County of Pima; approving Standards and Requirements related thereto; approving a General Plan related thereto; approving Program Documents; and authorizing and approving the issuance of not to exceed \$20,000,000 The Industrial Development Authority of the City of Tucson, Arizona and The Industrial Development Authority of the County of Pima Joint Single Family Mortgage Revenue Bonds, Series 2007C in one or more series or issues; and declaring an emergency.

L. INDUSTRIAL DEVELOPMENT: AUTHORIZATION FOR THE ISSUANCE OF TUCSON INDUSTRIAL DEVELOPMENT AUTHORITY HEALTHCARE REVENUE BONDS

1. Report from City Manager SEPT5-07-490 CITY-WIDE
2. Resolution No. 20761 a resolution of the Mayor and Council of the City of Tucson, Arizona approving the issuance of The Industrial Development Authority of the City of Tucson, Arizona Healthcare Revenue Bonds (COPE Community Services, Inc. Project), Series 2007, in a principal amount not to exceed \$4,500,000 (the "Bonds"); and declaring an emergency.

M. GRANT AGREEMENT: WITH THE ARIZONA CRIMINAL JUSTICE COMMISSION FOR A FULL-SERVICE FORENSIC CRIME LABORATORY PROGRAM

1. Report from City Manager SEPT5-07-489 CITY-WIDE
2. Resolution No. 20762 relating to Grants; approving and authorizing execution of a Grant Agreement between the City of Tucson and the Arizona Criminal Justice Commission which will provide \$160,000 in state grant funds for a Full-Service Forensic Crime Laboratory Program; and declaring an emergency.

N. FINAL PLAT: (S07-077) FIRST STREET CONDOMINIUMS, LOT 1, UNITS 1 AND 2, COMMON ELEMENT "A", AND LIMITED COMMON ELEMENTS "B" AND "C"

1. Report from City Manager SEPT5-07-493 WARD 6
2. Staff recommends that the Mayor and Council approve the final plat as presented. The applicant was advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.

O. FINANCE: COMMUNITY SUPPORT FUND TRANSFER FOR THE PEOPLE OF COLOR HEALTH AND SAFETY FESTIVAL

1. Report from City Manager SEPT5-07-494 WARD 6
2. Resolution No. 20763 relating to Finance; approving and authorizing the allocation of Five Hundred Dollars (\$500) from the Ward 6 Office Community Support Fund, Account No. 001-183-1898-268, to sponsor the People of Color Health and Safety Festival to be held on September 15, 2007; and declaring an emergency.

Kathleen S. Detrick, City Clerk, announced Resolution 20763 would be amended to include an additional contribution of two hundred-fifty dollars from Council Member Uhlich to Council Member Trasoff's original contribution of five hundred dollars for a total of seven hundred fifty dollars.

P. FINANCE: COMMUNITY SUPPORT FUND TRANSFER TO THE MUSCULAR DYSTROPHY ASSOCIATION (MDA)

1. Report from City Manager SEPT5-07-492 WARD 3
2. Resolution No. 20764 relating to Finance; approving and authorizing the allocation of One Hundred Dollars (\$100) from the Ward 3 Community Support Fund, Account No. 001-183-1898-268, to the Muscular Dystrophy Association (MDA); and declaring an emergency.

Q. ELECTIONS: AMENDING TUCSON CODE (CHAPTER 12) TO CONFORM TO A CHANGE IN STATE LAW REGARDING EARLY VOTING

1. Report from City Manager SEPT5-07-497 CITY-WIDE
2. Ordinance No. 10450 relating to elections: shortening from 33 to 26 days the period before the election during which the City Clerk must mail early ballots within 48 hours after receipt of an early ballot request; amending Tucson Code Section 12-20(1) to conform it to Arizona Revised Statutes Section 16-542(D) as amended during the Arizona Legislature's 2007 regular session; making the Tucson Code amendment effective September 19, 2007, to track amended A.R.S. § 16-542(D)'s effective date; and declaring an emergency.

It was moved by Council Member Leal duly seconded, that Consent Agenda Items A through Q, with the amendment to Item O, be passed and adopted and the proper action taken.

Mayor Pro Tempore Scott asked if there was further discussion. Hearing none, she asked for a roll call vote.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Uhlich, Leal and Trasoff;
and Mayor Pro Tempore Scott

Nay: None

Absent/Excused: Mayor Walkup

Consent Agenda Items A through Q, with the amendment to Item O, were declared passed and adopted by a roll call vote of 6 to 0.

8. **PUBLIC HEARING: ZONING (C9-92-19) COLDWELL – GRANT ROAD AND (C9-99-07) AAA AUTO RENTAL – GRANT ROAD, CHANGE OF CONDITIONS AND PRELIMINARY DEVELOPMENT PLAN**

Mayor Pro Tempore Scott announced City Manager's communication number 495, dated September 5, 2007, was received into and made a part of the record. She also announced this was the time and place legally advertised for a public hearing on a request for a change of conditions and preliminary development plan for property located on the south side of Grant Road, east of Country Club Road. She asked if the applicant or representative was present. She asked that they state their name and address, if they were agreeable to the proposed requirements, and if they had any brief comments before they continued with the public hearing.

Robert Page, architect on behalf of the applicant, said they were agreeable to the requirements and they appreciated the assistance of the Zoning Department's staff. The only issue they were still working with staff on was one parking space per dryer was required, so if someone was waiting for a dryer they had a place to park. So they had added dryers to all parking spaces. They discovered they were no longer considered parking spaces once a dryer was installed. The dryers had been removed and the vacuum system was moved to the front of the business and the back area was now parking space. Everything else was in accordance with the recommendations.

Mayor Pro Tempore Scott announced the public hearing was scheduled to last for no more than one hour. Speakers were limited to five minute presentations and they were asked to come forward when their name was called, and state their name, address, and whether the speaker lived in the City.

Michael Toney said he did not agree the request was, in concept, consistent with the policy direction of the *Grant-Alvernon Area Plan* and the *General Plan*. He suggested the Council consider at a study session on the environmental sections of the *General Plan*. He said every time a rezoning was said to be consistent with the policy of the *General Plan* it was not with the environmental section. The environmental section of the *General Plan* mentioned all new development should not interfere with the natural vegetation. It established incentives to mitigate or enhance the vegetation. He said his view, not just existing vegetation was included in this, but also what the natural state of the property was. In conjunction with other things occurring like the heat island effect, the minimization of the floral aspect of the vegetation, like sagebrush, which naturally occurred in the desert. The desert landscape was vanishing as Tucson continued to grow. It perpetuated the increase of global warming.

Mr. Toney said he did not know what the situation was with moving the vacuums to the front of the property and he asked how much black top would be laid on the property. He said these issues were not considered. The fact it was stated this rezoning was consistent with the *General Plan* was untrue, and they could read this in the environmental section. As development continued, the cumulative effect of cement, asphalt, or roof tops, covering the natural desert landscape would affect the aquifer and no one knew what would happen with water levels of Lake Mead and Lake Powell. He acknowledged the water harvesting and hydrology report requirements were good, but accomplishing them would require engineering the superstructure of the streetscape and integrating that into the flows that would occur. The runoff effects and cisterns to store the storm water would be difficult and he suggested putting in water fountains with gardens and incorporating cisterns as Mr. Laidlaw did for another project. Mr. Toney said the wall needed for mitigation should be buffered by plants to take away the hard visual surface of the wall.

James Sharrah, who owned a gun shop next to the business in question for thirty-five years, was concerned because he did not know what kind of people and night activity would be attracted to the property under consideration. He had vandalism,

break-ins and people living on his roof. He said he did not know what would follow. He said it was a big dark area and the crime rate on Grant Road had increased. He thought they might be out of business in three or four years. He could not visualize rezoning something if Grant Road would be torn up and everyone would be out of business anyway.

Leoma Rittoff said she agreed with Mr. Sharrah. She lived about a quarter of a block from where this property was. She said she was concerned about the noise that would be created, in addition to the type of people who would be drawn to the area. She had lived in this area since she was five years old. It was a quiet open area because there was a radio station tower behind this property, and a view of the Catalinas. There would be a completely different environment if this business was allowed to be brought in.

Scott Sheftall, one of the principals behind this request, said he wanted to address the concerns. He was one of the owners of Arizona Auto Spa and he was trying to make an investment in the community by opening up a new facility. When the environmental issue was being addressed, one of the aspects of car washing was that it took roughly one third of the water to use a professional car wash as opposed to a home car wash. They had tried to acknowledge this with a plan to use reclaimed water. They were tearing up the concrete in the area to plant trees and ensure beautification to the area and they had tried to address the community's concerns regarding noise. The lot itself extended back and this would be addressed through their hours of operation from 7:00 a.m. to 9:00 p.m. After closing, there would be gates in the front which would lock the area to block access to the back. With regard to the noise, Mr. Page had addressed the developmental concerns and as a result, the vacuums had been moved. They would also erect a wall surrounding the neighborhood community. There had been a neighborhood meeting where they tried to address any concerns. One couple showed up and the site plan was explained to their satisfaction. Mr. Sheftall said they were trying to address the needs of and make an investment in the community.

It was moved by Council Member Trasoff, duly seconded, and carried by a voice vote of 6 to 0 (Mayor Walkup absent/excused) to close the public hearing.

Council Member Trasoff asked why the condition prohibiting a drive-through or automated car wash was reversed.

Albert Elias, Director, Urban Planning and Design, said the original conditions were for a different site plan and a different array of uses. They were recommending some additional conditions be added as well as revisions to some of the original conditions to acknowledge the site plan that was submitted by the applicant.

Council Member Trasoff said one of the difficulties of this was the protests dating back to 1992 and 1999 did not have anything to do with this particular request. She said it was necessary to think beyond that, and to her understanding these issues were discussed at a neighborhood association meeting. The president of the association knocked on doors and left information for the people he could not talk to. There were

concerns, but it appeared most of them had been addressed. She asked if a condition could be added to require the doors be locked at a certain time and if the developer was amenable to that change.

Michael Rankin, City Attorney, said the hours of operation restrictions were in the proposed conditions.

Council Member Trasoff said the lighting would be no higher than sixteen feet. One thing she admired about the plan was on the east side there was a lot of buffering for the houses rather than developing everything, so it seemed there would be less paving under the revised plan than there currently was.

Mr. Sheftall said landscaping would be added as well.

Council Member Trasoff asked if there was anything that could be done regarding the sixteen foot lighting limit as opposed to the twenty-five that could be allowed. She wanted to know if there was anything to be done to minimize the impact of the lighting on the neighbors, for example shielding so it would not be impinging on the neighbors.

Robert Page said the sixteen foot was a good idea; shielded lighting to meet the lighting ordinance. In other projects, they had gone with dimmer systems that turned off fifty percent of all the lighting after a certain time. It was used for a bit of advertising or visibility from the street until 10:00 p.m. or 11:00 p.m. Once the traffic slowed down, it was not needed for anything. The equipment was expensive so there should be a bit of lighting to keep everything secure. It could be cut in half after 11:00 p.m. He did not see any need for lighting as mentioned. There was a forty or fifty foot buffer to the east to keep the lighting around to the front and west side. There might be people coming out of the bars which might cause concern with the neighbors to the west.

Council Member Trasoff confirmed Mr. Page was aware Grant Road would be widened. She also confirmed with Mr. Sheftall that the water would be recycled so there would not be the issues of possible contamination from the soap or whatever else was in the water. She said she appreciated that the back vacuums were removed so the noise would stay more to the front.

Council Member Uhlich said she respected the work that had been done. She noted the original rezoning records indicated due to the traffic issues, the plan ought not to be developed as previously proposed unless the improvement work at the intersection of Grant and Country Club had been done.

Mr. Elias said he thought they were referring to turn lanes and that type of thing being installed in the vicinity. He said he thought the original proposal was approved in 1999. He would have to go back and check what improvements had been made from that point in time. He thought that had been the original intent. That intersection was fairly congested.

Council Member Uhlich said her concern was with the buses starting and stopping, and the ingress and egress on this particular property. She said she wanted to raise this issue knowing it should also be taken into consideration.

Council Member Trasoff agreed this was a valid concern. To her knowledge, there might have been improvements but not the turn lanes, which would be coming with the Grant Road widening as that project progressed. She said she thought the reason she was comfortable with moving forward on this was the fact that the intensity of this business would be no more than what was there now and had been approved. She did not think it would put an undue burden on an overburdened intersection and appreciated the point was raised. Unfortunately, they would have a wait of several years before some of the improvements took place. She did not see this project exacerbating what currently existed. She said she hoped the questions raised at the meeting would ease the shop owner and neighbor's concerns and would like everyone to meet between now and when the matter returned for adoption so they could be assured their concerns were addressed.

Mr. Sheftall agreed to Council Member Trasoff's request.

It was moved by Council Member Trasoff, duly seconded, and carried by a voice vote of 6 to 0 (Mayor Walkup absent/excused), to direct staff to return with an ordinance, including the change of conditions, the issues discussed that evening, and the development plan for adoption at a future date.

9. ELECTIONS: CALLING A CHARTER AMENDMENT SPECIAL ELECTION TO BE HELD NOVEMBER 6, 2007

Mayor Pro Tempore Scott announced City Manager's communication number 498, dated September 5, 2007, was received into and made a part of the record. She asked the City Clerk to read Ordinance 10451 and Ordinance 10452 by number and title only.

Ordinance No. 10451 relating to elections; pursuant to Article XIII, Section 2 of the Arizona Constitution and to Chapter IV, Section 1(20), Chapter V, Section 9.1, and Chapter XVI, Section 6 of the Charter of the City of Tucson, Calling a Special Election to be held on November 6, 2007, for the purpose of submitting to the City's qualified electors a proposed amendment to Chapter V, Sections 8 and 9 of the Charter, recommended by the Citizens' Commission on Public Service and Compensation, to increase the salary of the Mayor from \$3,500 per month to \$4,000 per month and the salary of each of the members of the Council from \$2,000 per month to \$3,000 per month; and declaring an emergency.

Ordinance No. 10452 relating to elections; pursuant to Article XIII, Section 2 of the Arizona Constitution and to Chapter IV, Section 1(20), Chapter XVI, Section 6, and Chapter XIX of the Charter of the City of Tucson, calling a Special Election to be held on November 6, 2007, for the purpose of submitting to the City's qualified electors a

question submitted through Initiative Petition Number 2007-I003, relating to amending the Charter by adding a new Section 14 to Chapter XXV; and declaring an emergency.

It was moved by Council Member Ibarra, duly seconded, to pass and adopt Ordinance 10451.

Mayor Pro Tempore Scott asked for a roll call vote.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Uhlich, Leal, and Trasoff;
and Mayor Pro Tempore Scott

Nay: None

Absent/Excused: Mayor Walkup

Ordinance 10451 was declared passed and adopted by roll call vote of 6 to 0.

It was moved by Council Member Ibarra, duly seconded, to pass and adopt Ordinance 10452.

Mayor Pro Tempore Scott asked for a roll call vote.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Uhlich, Leal, and Trasoff;
and Mayor Pro Tempore Scott

Nay: None

Absent/Excused: Mayor Walkup

Ordinance 10452 was declared passed and adopted by roll call vote of 6 to 0.

10. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

Mayor Pro Tempore Scott announced City Manager's communication number 480, dated September 5, 2007, was received into and made a part of the record. She asked for a motion to approve the appointments in the report.

It was moved by Council Member Trasoff, duly seconded, and carried by a voice vote of 6 to 0 (Mayor Walkup absent/excused), to appoint Margaret N. Bowman, Environmental Category, to the Environmental Services Advisory Committee; and to appoint to the Resources Planning Advisory Committee: Matt Clark, At-Large, Mike Baruch, At-Large, Tom Johnson, At-Large, Joy Lyndes, At-Large,

Chad Kolodisner, Non-governmental entity, significant landowner, Carolyn Campbell, Coalition for Sonoran Desert Protection, Jason Meinenger, Sonoran Institute, Nancy Zierenberg, Arizona Native Plant society, Diana Hadley, Santa Cruz River Alliance, Ramon Gaanderse, Metropolitan Pima Alliance, and Gregory Shinn, Southern Arizona Home Builders Association.

Mayor Pro Tempore Scott asked if there were any personal appointments to be made at that time.

Mayor Pro Tempore Scott announced her appointments of Lisa Contreras to the Public Education and Government (PEG) Television Channel Task Force and Bonnie Vining to the Small Business Commission.

11. ADJOURNMENT: 7:42 p.m.

Mayor Pro Tempore Scott announced the next regularly scheduled meeting of the Mayor and Council would be held on Tuesday, September 18, 2007, at 5:30 p.m., in the Mayor and Council Chambers, City Hall, 255 West Alameda, Tucson, Arizona.

MAYOR

ATTEST:

CITY CLERK

CERTIFICATE OF AUTHENTICITY

I, the undersigned, have read the foregoing transcript of the meeting of the Mayor and Council of the City of Tucson, Arizona, held on the 5th day of September, 2007, and do hereby certify that it was an accurate transcription.

DEPUTY CITY CLERK

KSD:tl:ypl:bp